

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SIR JORDAN COSBY,

Plaintiff,

v.

ORDER

20-cv-184-wmc

BENJAMYN S. JENSON, ANDREW M. POHL,
and TORRIA VAN BUREN,

Defendants.

In an order dated May 21, 2020, this court granted *pro se* plaintiff Sir Jordan Cosby leave to proceed with a civil action against several state employees at Columbia Correctional Institution, where plaintiff is currently confined. Pursuant to an agreement with the Wisconsin Department of Justice, the court sent a copy of that order to the state attorney general for acceptance of informal service of process on defendants. Consistent with that agreement, the state attorney general accepted service and defendants filed an answer on July 14, 2020. (Dkt. ##9, 17.) Before defendants filed their answer, however, plaintiff filed a motion for entry of default and a motion for default judgment. (Dkt. ##12, 14.) Those motions will be denied for reasons set forth below.

Plaintiff claims that defendants have defaulted by failing to answer. Plaintiff's request is governed by Federal Rule of Civil Procedure 55(a), which authorizes entry of a default judgment "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise[.]" Here, the clerk of court understandably did not enter default because defendants were never in default. As noted above, the Wisconsin Department of Justice

has agreed to accept service of process for correctional officers and other state officials in actions filed by *pro se* litigants. Under the terms of that agreement, defendants have sixty days from receipt of the Notice of Electronic Filing granting leave to proceed in which to serve and file an answer, as the court explained in its opinion and order granting plaintiff leave to proceed. (5/21/20 Op. & Order (dkt. #7) 6.) The Department of Justice received a copy of the order granting leave to proceed on May 21, 2020, the date the clerk of court docketed the order, which means defendants had up to and including July 20, 2020 in which to answer. Court records confirm that the answer was timely served and filed in this case. Accordingly, IT IS ORDERED that plaintiff Sir Jordan Cosby's motion for entry of default (dkt. #12) and motion for default judgment (dkt. #14) are DENIED.

Entered this 16th day of July, 2020.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge